THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.4262 AND 4586 OF 2006

DATED: 03-04-2006

WP.No.4262 OF 2006

BETWEEN

M/s. Vijayasri Granite Metals,

Rep. by Managing Partner

Sri L. Veeraiah, S/o. L. Somaiah,

R/o. H.No.3-28-26/9, Krishna
Nagar, Near State Bank of Hyderabad

Guntur.

…PETITIONER

AND

Government of Andhra Pradesh,

Rep. by its Secretary, Industries &
Commerce, (Mines – II) Department,

Secretariat, Hyderabad and others.

…RESPONDENTS

WP.No.4586 OF 2006

BETWEEN

P. V. V. Surya Kumar,

S/o. P. Rama Rao,

Occ: Business,

R/o. H.No.3-28-26/9,

Krishna Nagar,
Near State Bank of Hyderabad,

Guntur.

...PETITIONER

AND

Government of Andhra Pradesh,

Rep. by its Secretary, Industries &
Commerce, (Mines – II) Department,

Secretariat, Hyderabad and others.

...RESPONDENTS

COMMON ORDER:

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The writ petitions have been filed questioning the interim orders passed by the Government vide in Memo Mo.714/M.II(1)/2006/1 dated 20.01.2006 and Memo No.1190/M.II(1)/2006/1 dated 02.02.2006 in staying the proceedings No.38474/R3-1/2005 and the proceedings No.38483/R3-1/2005 both dated 06.01.2006 of the Director of Mines and Geology, Hyderabad respectively pending disposal of the revisions.

The fifth respondent – Mr. B. Seetha Rami Reddy, in WP.No.4252 of 2006 was granted quarry lease for road metal over an extent of Ac.2.47 cents in Sy.No.155/A1, Plot No.13(P) of Chinapalakalur Village, Guntur District for a period of 5 years by the Deputy Director of Mines and Geology, Guntur vide proceedings dated 28.02.2002 and the lease deed was executed on 12.06.2003 before the Assistant Director of Mines and Geology, Guntur granting lease up to 11.06.2008. While so, the Assistant Director of Mines and Geology vide his letter dated 30.11.2004 submitted proposals to the Deputy Director of Mines and Geology to issue show cause notice to the fifth respondent on the ground that the lessee has not submitted quarterly returns in Form-C, the lessee has not paid the advance dead

rent for the year 2004-05, the lessee has not taken up any dispatch permits since 11.07.2003 and the lessee has not submitted the accounts before the Assistant Director of Mines and Geology, Guntur for assessment for the year 2003-04 and up to 30.09.2004. Accordingly, a show cause notice dated 14.06.2005 was issued to show cause as to why determination of quarry lease shall not be taken for violations committed by the fifth respondent, but the same was returned with endorsement no such addressee. Therefore, the lease granted in favour of the fifth respondent was cancelled vide proceedings of the third respondent dated 15.07.2005 for violation of Rules 17(1) and 31(iv) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short 'the Rules') and forfeited the security deposit to Government.

The fifth respondent – Mr. G. Srinivasa Rao, in WP.No.4586 of 2006 was granted quarry lease for road metal over an extent of Ac.3.00 cents in Sy.No.155/B2 and 155/A1, Plot No.8(P) of Chinapalakalur Village, Guntur District for a period of 5 years by the Deputy Director of Mines and Geology, Guntur vide proceedings dated 28.02.2002 and the lease deed was executed on 26.06.2003 before the Assistant Director of Mines and Geology, Guntur granting lease up to 25.06.2008. While so, the Assistant Director of Mines and Geology vide his letter dated 02.02.2005 submitted proposals to the Deputy Director of Mines and Geology to issue show cause notice to the fifth respondent on the ground that the lessee has not submitted quarterly returns in Form-C up to 31.12.2004 and the lessee has not taken up any dispatch permits since 01.04.2004. Accordingly, a show cause notice dated 06.06.2005 was issued to the lessee for the above breaches. The lessee submitted his explanation, which was considered and after inspecting the quarry area it was noticed that the quarry lease if found non-working, no stock of road metal is found in the quarry site, no boundary pillars are mentioned by the lessee, that the lessee has to pay dead rent Rs.3,000/- and interest Rs.387/- as per the mineral revenue assessment finalized up to 31.03.2005 for the year 2005-06 and he has not obtained any dispatch permits since 01.04.2004 and not submitted any returns to the fourth respondent. Therefore, the lease granted in favour of the fifth respondent was determined for violation of Rules 31(v), 28(3) and covenant 13 clause 8 of quarry lease deed read with conditions under Rule 31(6) of the Rules and cancelled the lease and forfeited the security deposit Government by order dated 03.11.2005.

Aggrieved by the said orders the fifth respondent in both the writ petitions filed appeals

before the Director of Mines and Geology,
in which the petitioners herein got impleaded themselves and the order impleading the petitioners in the respective appeals was not questioned. However, after hearing the petitioners, though the petitioners paid the dead rent payable the Department and promised to comply all the violations committed by them earlier,
their respective appeals were dismissed on 06.01.2006 on the ground that they have not taken dispatch permits from 11.07.2003 and 01.04.2004 respectively and the area is one of the established area having good potentialities and keeping such area idle is not desirable in the interest of mineral development.

Aggrieved by the similar orders of the appellate authority the fifth respondent in both the writ petitions independently filed revision applications under Rule 35-A of the Rules and the Government by impugned orders dated 20.01.2006 and 02.02.2006 in the respective revisions granted stay of order of the Director of Mines and Geology and he was requested to issue permits on payment of Seigniorage Fee and fulfilling other conditions as per the Rules and take immediate action.

Learned counsel for the petitioners submits that the interim orders passed by the Government amounts to passing final orders on the main revision itself. Therefore, the impugned orders are illegal, arbitrary, contrary and beyond the scope of the powers vested in the Government under Rule 35-A of the Rules.

Learned counsel for the respondents submits that the petitioners have no locus standi and the impugned orders are only interim orders. Therefore, the Government itself may be directed to consider and dispose the main revisions itself.

I am of the opinion that when interim orders have been challenged before this Court and when the order impleading the petitioners was not questioned, it may not be just and proper for this Court to decided the locus standi and the right of the petitioners to question the interim orders as the revisions itself are pending before the Government. Therefore, I am inclined to consider the legality and validity of the interim order passed by the Government.

Perusal of Rule 35-A of the Rules goes to show that the Government has got revisional power either suo-motto or on an application, to examine any order passed by the Director, Deputy Director and Assistant Director of Mines and Geology for the purpose of satisfying itself the legality or propriety of such order or as to the regularity of such proceedings and pass such orders in reference thereto.

No doubt, no such orders can be passed adversely affecting any person but in the instant case, it cannot be said that the interest of the petitioners herein has been adversely affected by the impugned orders. Therefore, I am not inclined to agree with the learned counsel for the petitioners that their interest is adversely affected. But I am only inclined to consider as to whether the Government is right in granting stay without deciding the legality or propriety or regularity of the order passed by the Deputy Director, Mines and Geology canceling the leases which was upheld by the appellate authority, Director, Mines and Geology.

There is no answer to the query put forth by this Court with regard to payments as contemplated under Rules 17 and 31 of the Rules. Under Rule 17(1) of the Rules if the lessee discontinues the quarrying operations after the commencement for a continuous period of six months or if fails to pay the required amounts under Clause (iv) of Rule 31 of the Rules read with Rule 17(2), is entitled to submit an application to the Director and the Director on receipt of application is entitled to extend or refuse to extend the lease. Under Rule 31(iv) of the Rules a lessee shall pay the advance dead rent at the time of execution of the lease deed and the annual dead rent for the subsequent years, one month in advance every year and all other sums payable to the Government in any Government Treasury and file the challans to the Assistant Director. Admittedly, both the lessees have failed to pay the advance rent for subsequent years but only after cancellation of the leases they have paid the amounts. Therefore, I am of the opinion that the Government gets power to pass interim order or final orders if the original order passed by the Deputy Director is illegal and irregular. In the absence of any illegality or irregularity in the order, I am of the opinion that it may not be just and proper to pass interim orders which is as good as passing final orders on the revisions itself.

As there is violation of Rules 17(1) and 31(iv) of the Rules,
I am of the opinion that interim order passed by the Government is unjust and

unsustainable. Accordingly, the impugned orders are set aside directing the Government to hear and dispose the revisions itself and decide the locus standi of the petitioners in the revisions within two weeks from the date of receipt of a copy of this order as the revisions are pending against the order of the Director, Mines and Geology. As the petitioners have been impleaded before the Director, Mines and Geology, the revisional authority may go into the question of legality and validity of impleading the petitioners herein while passing orders on the merits against the orders of the Deputy Director canceling the leases.

The writ petitions are accordingly allowed.

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V. ESWARAIAH, J

April 3, 2006

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